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10/042,899	01/08/2002	Joe Freeman Britt JR.	04676.P020	5830

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EXAMINER

TARAE, CATHERINE MICHELLE

ART UNIT	PAPER NUMBER
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3623

MAIL DATE	DELIVERY MODE
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05/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/042,899

Applicant(s)

BRITT ET AL.

Examiner

C. Michelle Tarae

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) 16-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a Non-Final Office Action in response to the Election received on February 20, 2007. Claims 1-9 have been elected without traverse. Claims 10-15 have been cancelled and claims 16-20 have been withdrawn from further consideration.

Accordingly, claims 1-9 are rejected below.

Response to Election/Restriction

2. Claims 16-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on February 20, 2007.

Claim Objections

3. Claims 1 and 4 are objected to because of the following informalities:

Claim 1, line 16 recites, "sending said inquiry into said wireless network to said group of." It appears that the word, users, is missing after the phrase, group of, at the end of the limitation.

Claim 4, line 2 recites, "attribute includes a specific." It appears that a word is missing after the word, specific.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-5 and 7-9 are rejected under 35 U.S.C. 102(e) as being anticipated by De Vries (U.S. 6,968,179).

As per claim 1, De Vries discloses a method comprising:

sending a request for a return signal into a wireless network to a plurality of users of said wireless network having data processing devices (col. 5, line 67-col. 6, line 3; A user may submit a request to receive information or notifications regarding what users on their buddy list are nearby);

receiving from said wireless network respective return signals from each of said plurality of users, each of said return signals containing information describing its respective user (col. 5, lines 43-55; Figure 1; Personal mobile devices provide location information to the information service.);

receiving from said wireless network an inquiry generated by a first user of said wireless network, said inquiry having predetermined responses associated therewith, and receiving from said wireless network an attribute provided by said first user as a criteria for identifying recipients of said inquiry (col. 5, line 67-col. 6, line 3; A user may

submit a request to receive information or notifications regarding what users on their buddy list are nearby.);

automatically selecting a group of users from said plurality of users, each user of said group of users having said attribute, said selecting including analyzing said respective information of each of said plurality of users, said attribute being identifiable from said respective information of each of said selected group of users and sending said inquiry into said wireless network to said group of (col. 5, line 67-col. 6, line 3; col. 6, lines 8-23; A user may submit a request to receive information regarding what users on their buddy list are nearby. People on the user's buddy list who have the location information are identified and the information is sent to the user.);

receiving from said wireless network responses from one or more users in said group of users (col. 5, lines 38-42 and 56-67; Users may directly input responses to the inquiry.); and

sending said responses into said network to said first user (col. 6, lines 20-23).

As per claim 2, De Vries discloses the method as in claim 1 wherein said attribute is a specific geographical location (col. 6, lines 28-29; The system may track a user's specific geographical location as an attribute of the user.).

As per claim 3, De Vries discloses the method as in claim 1 wherein said attribute is a specific distance from said first user (col. 5, lines 47-50; The system may track a user's specific change of location by a threshold, or distance, as an attribute of the user.).

As per claim 4, De Vries discloses the method as in claim 1 wherein said attribute includes a specific (col. 6, lines 28-29; The system may track a user's specific geographical location as an attribute of the user.).

As per claim 5, De Vries discloses the method as in claim 1 wherein said attribute is a specific occupation (col. 6, lines 57-64; The system tracks a user's role at a specific location/event, including role at a workplace.).

As per claim 7, De Vries discloses the method as in claim 1 wherein one of said information includes a home address of its respective user (col. 6, lines 15 and 38-40).

As per claim 8, De Vries discloses the method as in claim 1 wherein said attribute is being listed in said first user's buddy list and wherein said method further comprises:

receiving from said wireless network a signal from said first user, said signal identifying users of said wireless network who are on said first user's buddy list (col. 5, line 67-col. 6, line 3);

adding to said respective information of each of those of said plurality of users who are on said first user's buddy list that he/she has been included in said first user's buddy list (col. 7, lines 33-43; Users may be grouped/added into different buddy lists based on different attributes.).

As per claim 9, De Vries discloses the method as in claim 1 wherein said attribute is being listed in said first users address book and wherein said method further comprises:

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receiving from said wireless network a signal from said first user, said signal identifying users of said wireless network who are listed in said first user's address book (col. 5, line 67-col. 6, line 3);

adding to said respective information of each of those of said plurality of users who are listed in said first user's address book that he/she has been included in said first user's address book (col. 7, lines 33-43; Users may be grouped/added into different buddy lists based on different attributes.).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over De Vries (U.S. 6,968,179).

As per claim 6, De Vries does not expressly disclose the method as in claim 1 wherein said attribute is a specific sex. However, De Vries does disclose using attribute information to help in identifying a person (col. 6, lines 29-31 and 55-67). Examiner takes Official Notice that sex is an attribute with which to describe a person. At the time of the invention it would have been obvious to a person of ordinary skill in the art to use a specific sex as an attribute of a person because sex is another attribute with which to define a person, thereby enhancing De Vries' system of identifying and possibly

grouping users based on their attributes. For example, knowing users' sex enables the system to form buddy lists according to users' sex.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Hanson et al. (U.S. 6,457,045) discusses collecting responses from a group via a wireless network;
- Lytle et al. (U.S. 6,549,950) discusses tallying voting data via emails.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Michelle Tarae whose telephone number is 571-272-6727. The examiner can normally be reached Monday – Friday from 8:30am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached at 571-272-6729.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free).


C. MICHELLE TARAE
PRIMARY EXAMINER

May 3, 2007